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SEC

SERVICE DATE – DECEMBER 12, 2002

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-124 (Sub-No. 2)

WATERLOO RAILWAY COMPANY  
– ADVERSE ABANDONMENT –  
LINES OF BANGOR AND AROOSTOOK RAILROAD COMPANY AND VAN BUREN  
BRIDGE COMPANY IN AROOSTOOK COUNTY, ME

STB Docket No. AB-279 (Sub-No. 3)

CANADIAN NATIONAL RAILWAY COMPANY  
– ADVERSE DISCONTINUANCE –  
LINES OF BANGOR AND AROOSTOOK RAILROAD COMPANY AND VAN BUREN  
BRIDGE COMPANY IN AROOSTOOK COUNTY, ME

Decided: December 11, 2002

The petition of the Trustee of the Bangor and Aroostook Railroad Company (BAR) for an order requiring Canadian National Railway Company (CN) to respond by December 16, 2002, to BAR's motion to compel in connection with discovery in these proceedings is denied.

On November 14, 2002, BAR filed a notice of intent to file an adverse abandonment application in STB Docket No. AB-124 (Sub-No. 2), Waterloo Railway Company–Adverse Abandonment–Lines of Bangor and Aroostook Railroad Company and Van Buren Bridge Company in Aroostook County, ME, and a notice of intent to file an application for adverse discontinuance in STB Docket No. AB-279 (Sub-No. 3), Canadian National Railway Company–Adverse Discontinuance–Lines of Bangor and Aroostook Railroad Company and Van Buren Bridge Company in Aroostook County, ME. The line involved in both proceedings runs between Madawaska, ME, and the Canadian border, and serves a mill owned by Fraser Paper, Inc. at Madawaska. In decisions served on September 25, 2002, and October 23, 2002, the Board granted BAR waivers of, and exemptions from, certain regulatory and statutory requirements in connection with those applications.

By motion filed on December 9, 2002, BAR asks the Board to require CN to answer certain interrogatories and produce certain documents. Included in its motion is a request that the Board order CN to reply to its motion by December 16, 2002. CN has replied in opposition to that request.

BAR's request lacks adequate justification. The Board's rules provide that a party has 20 days to reply to any filing. BAR states that it had intended to file its application by December 23, 2002, and it asserts that the shortened reply period is necessary "to avoid further delay in this proceeding."<sup>1</sup> That assertion does not justify ordering CN to reply to BAR's motion to compel within 7 days. BAR does not even allege, much less demonstrate, that any delay in the proceeding is the fault of CN. While CN did raise objections to BAR's discovery requests, it evidently did so in a timely fashion.

CN states that it expects to file its reply by December 23, 2002, a week before the reply date required by the Board's rules. Under all of these circumstances, there is no justification for granting BAR's request that the Board order CN to reply to BAR's motion to compel by December 16, 2002.

This decision will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. The request that the Board set December 16, 2002, as the due date for CN's reply to BAR's motion to compel is denied.
2. This decision is effective on its date of service.

By the Board, Vernon A. Williams, Secretary.

Vernon A. Williams  
Secretary

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<sup>1</sup> BAR recognizes that it will not be able to file its application by December 23, 2002, even if its request for an expedited reply by CN were granted.